

STATE COMPLAINT

10/07

STATE OF CONNECTICUT
LABOR DEPARTMENT
CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF The State Employees Bargaining
Agent Coalition, The Division
of Criminal Justice, Governor Dannel Malloy,
(RESPONDENT)
and the Connecticut Association of Prosecutors
-AND-

CASE NO. SPP-29298

Lisa Herskowitz

(COMPLAINANT)

RESPONDENT'S ADDRESS: see attachedRESPONDENT'S PHONE: see attached

NUMBER OF EMPLOYEES INVOLVED IN ALLEGED PROHIBITED PRACTICE: 250+ in my union, plus, for some claims, all 45,000
 UNIT DESCRIPTION OR NATURE OF WORK DONE BY EMPLOYEE(S) INVOLVED: unionized state employees
My union is comprised of prosecutors in the Division of Criminal Justice.

COMPLAINT

PURSUANT TO SECTION 5-274 OF AN ACT CONCERNING COLLECTIVE BARGAINING FOR STATE EMPLOYEES, THE UNDERSIGNED ALLEGES THAT THE ABOVE-NAMED RESPONDENT HAS ENGAGED IN AND IS ENGAGING IN PROHIBITED PRACTICES WITHIN THE MEANING OF SECTION 5-272 OF SAID ACT, IN THAT: (SPECIFY THE PARTICULAR ALLEGED VIOLATION, WITH A GENERAL STATEMENT OF THE FACTUAL BASIS FOR THE COMPLAINT.)

I have been a prosecutor for almost seventeen years and am a member of the Connecticut Association of Prosecutors (CAP). Governor Malloy's call for state-employee union concessions and the events that have followed have spawned several unfair labor practices,

(Continued on attached pages)

SUBSCRIBED AND SWORN TO BEFORE ME THIS

11th DAY OF July 2011

NOTARY PUBLIC
JUSTICE OF THE PEACE
COMMISSIONER OF SUPERIOR COURT



Lisa Herskowitz

COMPLAINANT

SIGNATURE

Lisa Herskowitz, Senior Assistant State's Attorney

PRINT NAME & TITLE

COMPLAINANT'S ADDRESS:

Superior Court GA 12, State's Attorney's Office,
410 Center Street, Manchester, CT 06040

COMPLAINANT'S PHONE: 860-649-4779 (work)CERTIFICATION OF SERVICE

I HEREBY CERTIFY THAT, PURSUANT TO SECTION 5-273-23 OF THE CONNECTICUT GENERAL REGULATIONS, A COPY OF THE FOREGOING WAS MAILED TO THE RESPONDENT BY REGISTERED OR CERTIFIED MAIL.

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ADDRESSES AND PHONE NUMBERS OF RESPONDENTS

State Employees Bargaining Agent Coalition, c/o Attorney Dan Livingston, 557 Prospect Avenue, Hartford, CT 06105, (860) 233-9821.

Division of Criminal Justice, c/o Chief State's Attorney Kevin Kane, 300 Corporate Place, Rocky Hill, CT 06067, (860) 258-5800.

Governor Dannel Malloy, Office of the Governor, State Capitol, 210 Capitol Avenue, Hartford, CT 06106, (860) 566-4840.

Connecticut Association of Prosecutors, c/o Attorney Jack Doyle, Union President, State's Attorney's Office, 235 Church Street, New Haven, CT 06510, (203) 927-5356.

COMPLAINT (continued)

First, as its own bylaws recognize, the State Employees Bargaining Agent Coalition (SEBAC) is only authorized to bargain with the State on issues concerning the state employees' retirement system. The tentative agreement SEBAC forced union members to vote on in June included wage provisions, including reopening the wage contract that is in effect until 2012 to give back wage increases and other monetary benefits that are due union members. SEBAC had no authority to do this. Had my union voted "no" to the agreement and all the other unions voted "yes," my union's wage contract would have been reopened and voided. This is unfair. Wages are supposed to be negotiated by each union individually. Furthermore, the tentative agreement tied the wage, pension and health-care provisions together. My union didn't even allow members to vote separately on the wage provisions and the pension and health-care provisions, underscoring the fact that our wages were negotiated by SEBAC and not separately by our own union as required.

Second, SEBAC violated its own bylaws by reopening the pension and health-care agreement that is in effect until 2017, and by reopening the 2009 wage agreement that is in effect until 2012 (which SEBAC had no right to negotiate in the first place), without allowing the union members to vote on whether these agreements should be reopened and renegotiated. Section 10(a) of the SEBAC bylaws requires such a vote. If it did not, then Section 10(c) which requires union members to ratify any new agreement would be redundant.

Third, SEBAC carried out the negotiations in secret without getting any input from union members. Rank and file members did not have any say at all until they voted. SEBAC basically said "here it is, take it or leave it, and if you leave it, there will be layoffs and the state will be economically devastated." This was highly coercive. Even after the unions voted down the agreement, the SEBAC leaders suggested that they themselves have the power to change the bylaws in order to convert a "no" vote into a "yes" vote, even though Section 10(b) of the bylaws requires the union members to vote on any such change.

In a letter dated July 5, SEBAC asked the governor to reopen the negotiations, again without obtaining the approval of the union members as required by Section 10(a). SEBAC and CAP President John Doyle,

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11th day of July 2011

[Signature]

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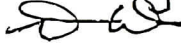
who I'm told is representing our union on SEBAC, continue to engage in these unfair practices despite the limits imposed on SEBAC by statute and its own bylaws.

Fourth, after SEBAC issued the first tentative agreement, one of our union members who is not an officer emailed the membership with concerns about the health-care provisions. Chief State's Attorney Kevin Kane, who heads up the Division of Criminal Justice, emailed us a memo indicating that state email could not be used for such a purpose because the subject matter was not work-related. One of Attorney Kane's employees regularly emails us about discounts on BJ's Wholesale Club memberships and other similar benefits that are available to us as state employees. How is it that communicating about those types of benefits via state email is acceptable but communicating about health-care benefits is not? I recently received an email from management about changes in our health-insurance rates, and about when employees will be permitted to switch plans if they choose to do so. In truth, the only thing Attorney Kane sought to eliminate is any negative comment on the tentative agreement. To the best of my recollection, during my seventeen years, members have been permitted to email each other freely about contract proposals with no interference from management. Attorney Kane's action in closing down the only practical avenue we had for communicating with other members as a group was totally unfair. His memo coerced us into silence to prevent negative communication on the agreement.

Soon after Attorney Kane emailed his memo to us, Lieutenant Governor Nancy Wyman sent us an email on behalf of the governor rebutting the concerns raised in our union member's email. It was unfair and coercive because we were not able to respond. The day before we, CAP, were scheduled to vote, our union officers sent all of the members an email pushing us to vote "yes" and suggesting that horrible things could happen to us if we voted "no." Attorney Kane did not say anything about the appropriateness of this communication.

Finally, as the time for voting neared, and while the voting was going on, the governor repeatedly and vehemently threatened us with layoffs should we vote down the agreement. He increased the layoff numbers from 4500 to 7500. This was extremely coercive. He and the union leaders had already made it clear many times that if the agreement was rejected, there would be layoffs. The governor's repeated threats were not intended to furnish information; they were intended to coerce people into voting "yes." The governor said right before the voting started that he'd decided to hold off on issuing layoff notices as an act of good faith. It's more likely that he did it so that the people who were safe wouldn't know that they were safe, increasing the likelihood that they would vote "yes," especially with the pressure of the governor's constant threats.

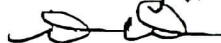
On the topic of coercion, my agency holds a two-day training program for prosecutors every year. The union scheduled the vote to coincide with the first day of the training, which was being held four miles from the Chief State's Attorney's Office, which is where the voting was held. We were encouraged to go to the training and then vote, because the two were so conveniently close to each other. Also, Attorney Kane changed the rules this year concerning who had to go to training. I had to go for the first time. I was told by another union member that usually, only forty or fifty prosecutors attend. This year, there were so many people it looked like just about everyone was attending. As the lunch break approached and I and many others were getting ready to drive the four miles to Rocky Hill to vote, Governor Malloy

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showed up. Attorney Kane pointed him out, indicated that he'd hoped the governor would stop by, and allowed the governor to address us about the budget crisis and his days as a prosecutor. Many members were extremely upset by this unfair, coercive move on the part of the management and the governor. The agreement only passed my union by seven votes. This unfair labor practice may well have affected the result.

Although the tentative agreement has been rejected there is talk of a revote, or renewed negotiations without member approval in violation of the SEBAC bylaws. I urge you to consider this complaint as quickly as possible in order to prevent these unfair labor practices from being repeated. SEBAC has already unfairly placed our wages and benefits in jeopardy without consulting us, and they are trying to do so again. They are also doing nothing to defend us from critics and, all around, not fulfilling their duty of fair representation. Thank you for your consideration.

Subscribed and sworn to me before me the
11th day of July 2011

Commissioner of Superior Court